



CTIA

Building The Wireless Future

Cellular Telecommunications Industry Association

ORIGINAL

Michael F. Altschul

Vice President/General Counsel

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 3, 1999

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

Re: *Ex Parte* Presentation
WT Docket No. 98-205

Dear Ms. Salas:

Today, September 3, 1999, the Cellular Telecommunications Industry Association ("CTIA") hand-delivered the attached letter to Chairman William Kennard. CTIA also hand delivered a copy of the letter to Commissioner Harold W. Furchtgott, Commissioner Susan Ness, Commissioner Michael Powell, and Commissioner Gloria Tristani and Thomas J. Sugrue, Chief Wireless Telecommunications Bureau.

Pursuant to Section 1.1206 of the Commission's Rules, CTIA, on behalf of the signatories to the attached letter, is filing an original and one copy of this letter and the attachments with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Michael Altschul

Attachment (3)

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Cellular Telecommunications Industry Association

Thomas E. Wheeler

President / CEO

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Chairman and Commissioners
Federal Communications Commission
The Portals
445 Twelfth Street, S.W., 8th Floor
Washington, D.C. 20554

Dear Members of the Commission:

This month the Commission is scheduled to decide whether to eliminate or retain the 45 MHz CMRS spectrum cap. The Commission's decision is critical to the continued competitive development of wireless services -- both domestically and globally. Without Commission action removing or otherwise forbearing from the current spectrum cap, the Commission will jeopardize not only the rapid introduction of third generation ("3G") services, but also the position of the United States as a leader in innovative telecommunications service offerings.

The Commission cannot afford to ignore the implications of its actions in the 45 MHz cap proceeding: failure to grant this relief will result in the United States falling behind Europe and Japan in the deployment of wireless 3G technologies, and the benefits these services bring to the public. England, Finland, and Japan have already announced plans to license 3G wireless services. By contrast, in the United States, the allocation of additional spectrum for 3G is at least eighteen months to two years away. Unfortunately, carriers need to make commitments to their vendors today if they are to keep pace with the rest of the world. Only removal of the CMRS spectrum cap in favor of more refined enforcement efforts will enable carriers to begin offering competitive, new 3G services on a wide scale and timely basis.

In urging the Commission to eliminate the CMRS spectrum cap, CTIA is not asking that the Commission cede its authority over market concentration and other competitive issues. Rather, the Commission must remove the straitjacket of the existing spectrum cap, and rely instead on the "belt and suspenders" of (1) antitrust review by the expert antitrust agencies and (2) the Commission's case by case review under Section 310(d).¹ Permitting CMRS carriers the flexibility to offer advanced services using existing spectrum allocations will promote consumer welfare by ensuring to the maximum extent feasible rapid introduction of advanced services.

¹ 47 U.S.C. § 310(d).



The success in recent years of the Commission's wireless policies can be measured by the large and continuing increases in wireless competition, innovation, and safety. Consistent with the authority granted to it by Congress in 1993,² the Commission has acted quickly to license new wireless carriers and has let the market determine the evolution of digital voice wireless services. As a result, customer choice of wireless service offerings and providers is at its highest level to date. But this record of achievement will not continue if unnecessary regulation acts as a barrier to innovation. The CMRS spectrum cap threatens carriers' ability to harness enough spectrum to provide advanced, 3G services.

As George Santayana teaches, those who cannot remember the past are condemned to repeat it. History reveals that in the early 1970's cellular service was clearly feasible. Yet the Commission, with the most noble of regulatory intent, delayed the licensing of cellular until 1982 and availability of cellular service until late 1983. In so doing, it allowed other nations to get a headstart. The United States was clearly a world leader in mobile technology in 1971. By 1981, though, much of this lead had been forfeited to countries such as Scandinavia and Japan -- countries with operational cellular systems in 1981. Experts have estimated that this 10-15 year regulatory delay in licensing cellular services cost the United States economy more than \$86 billion.³ The real costs of this delay were borne directly by American citizens who were denied the benefits of wireless technology.

Today, the United States is once again "behind the curve" in deploying advanced wireless technologies.⁴ Both Europe and Japan are on schedule to deploy the next generation of high-speed wireless data services by the first half of 2001. In the United States, without relief from the spectrum cap, the carriers who have built out their systems in the nation's urban markets will

² Under the Omnibus Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993), the Commission was granted authority for the first time to assign licenses through spectrum auctions. It also received the authority and the obligation to reshape the regulatory landscape of the CMRS industry by forbearing from onerous Title II common carrier obligations and ensuring the preemption of state and local regulation of CMRS rates and entry.

³ See generally Jeffrey H. Rohlfs, Charles L. Jackson, Tracey E. Kelley, National Economic Research Associates, Inc., "Estimate of the Loss to the United States Caused by the FCC's Delay in Licensing Cellular Telecommunications," (revised ed. Nov. 8, 1991).

⁴ See generally, Maryanne Murray Buechner, "Why Your Cell Phone Stinks. . ." Time, Aug. 23, 1999.

Honorable Chairman and Commissioners

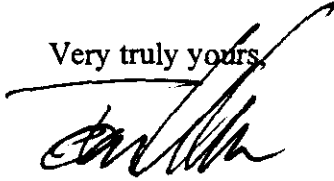
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be unable to deploy 3G technology until the Commission completes the allocation and licensing of additional CMRS spectrum. Unfortunately, that is in the distant future. In the very markets where 3G would find the greatest demand, and where U.S. carriers would achieve the greatest scale economies, the citizens of the United States will be prevented from securing advanced services.

CTIA, on behalf of its membership, urges the Commission to act quickly to eliminate the 45 MHz CMRS spectrum cap. In doing so, the Commission will increase the number of wireless services available to U.S. consumers without hamstringing its efforts to promote competition.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tom Wheeler", with a long horizontal line extending from the end of the signature.

Thomas E. Wheeler